Office of the Commissioner of Lobbying of Canada

2008-2009

Departmental Performance Report

The Honourable Vic Toews, P.C., Q.C., M.P.
President of the Treasury Board

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Commissioner's Message

On July 2, 2008, the *Lobbying Act* (the Act) came into force, creating the position of Commissioner of Lobbying and the Office of the Commissioner of Lobbying (OCL). As Commissioner, it is my privilege to produce the first Departmental Performance Report for this Office. This report provides a concise, reliable and balanced chronicle of the OCL's performance with regards to its plan, priorities and expected results over the last fiscal year.

As the Commissioner of Lobbying, I am responsible for administering and implementing the *Lobbying Act*. My mandate, which is set out in the *Lobbying Act*, includes maintaining the Registry of Lobbyists (the Registry) that is readily accessible to lobbyists and the public, developing and implementing educational programs that will foster awareness of the Act and ensuring compliance with the Act and the *Lobbyists' Code of Conduct* (the Code).

The Registry is the primary tool used by the OCL to ensure transparency in lobbying activities conducted at the federal level. The complexity of new reporting requirements such as the monthly communication reports under the Act required a complete overhaul of the Registry's business processes. This resulted in significant changes and major improvements to the Registry, making it more adaptable and responsive to its users. These major changes were brought in on time, within budget and with no major technical problems.

Promoting awareness of the Act is essential to ensuring compliance. As such, one of my objectives was to improve the understanding of lobbyists, their clients, public office holders and others interested in lobbying activities, about the rationale and the requirements of the Act. To achieve this objective, various products and means of communications were used, such as direct communications, information sessions and on-line multimedia tutorials, to name but a few.

During this reporting period, allegations of non-compliance with the Act and Code continued to be pursued. The Act changed a number of things for the OCL in terms of compliance. Therefore, significant effort was spent this past year to incorporate these compliance changes into our established processes and develop new ones to deal with such issues as the exemption process from the five-year prohibition on lobbying.

In closing, many great things were accomplished by this Office in the past year in preparing for and implementing the *Lobbying Act*. I am confident that this work, as well as other results achieved by the OCL, will contribute in an important way to enhancing confidence and trust in federal government decision-making.

Karen E. Shepherd
Commissioner of Lobbying

SECTION I: DEPARTMENTAL OVERVIEW

Raison d'être

The mandate of the Office of the Commissioner of Lobbying is derived from the *Lobbying Act*. Its purpose is to ensure transparency and accountability in the lobbying of public office holders in order to contribute to confidence in the integrity of government decision-making. The Office of the Commissioner of Lobbying supports the Commissioner in fulfilling the mandate.

Responsibilities

The Commissioner of Lobbying is responsible for the implementation of the *Lobbying Act*. The authority of the Commissioner, who is an independent Officer of Parliament, derives from the Act.

The Office of the Commissioner of Lobbying administers the *Lobbying Act* (the Act), which provides for the establishment of a Registry of Lobbyists that seeks to improve transparency and accountability regarding communications by lobbyists with public office holders. This contributes to increasing the public's confidence in the integrity of government decision-making.

The primary activities to support the mandate of the Office of the Commissioner of Lobbying are threefold. They are to establish and maintain the Registry of Lobbyists, which contains and makes public the registration information disclosed by lobbyists as well as their monthly returns regarding communications with designated public office holders; to develop and implement educational programs to foster public awareness of the requirements of the *Lobbying Act*; and to ensure compliance with the Act and the *Lobbyists' Code of Conduct*.

The Commissioner of Lobbying has received new authority under the *Lobbying Act* to grant exemptions to designated public office holders subject to a five-year prohibition on lobbying activities along with the ability to review allegations that lobbyists have been provided with fees contingent upon the success of their lobbying activities, the payment of which is now prohibited.

The Commissioner reports annually to Parliament on the administration of the *Lobbying Act* and the *Lobbyists' Code of Conduct* and is required to table reports on any investigations conducted in relation to the Code.

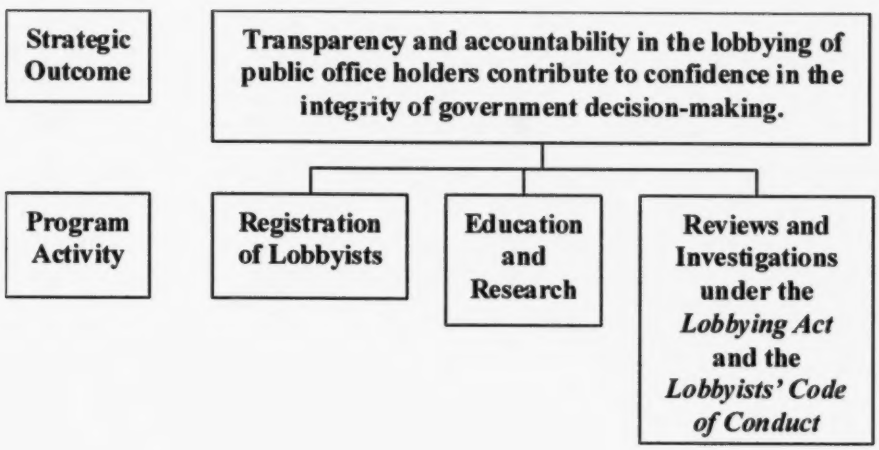
Strategic Outcome and Program Activity Architecture (PAA)

In order to effectively pursue the mandate, the Office of the Commissioner of Lobbying (OCL) aims to achieve the following strategic outcome:

Transparency and accountability in the lobbying of public office holders contribute to confidence in the integrity of government decision-making.

Program Activity Architecture

The Program Activity Architecture (PAA) for the OCL is its basis for reporting to Parliament. The PAA describes the relationship between the activities the OCL undertakes and the strategic outcome it is working to achieve, in order to produce results for Canadians. In addition, the PAA also provides the framework that links the expected results and the performance measures to individual program activities, clarifying why the OCL does what it does and how it will measure the results achieved. Finally, the PAA also serves as a framework to link the financial resources to each program activity, indicating how the OCL manages the resources under its control to achieve its intended outcomes.


Strategic Outcome
Transparency and accountability in the lobbying of public office holders contribute to confidence in the integrity of government decision-making.
Program Activity
Registration of Lobbyists
Education and Research
Reviews and Investigations under the *Lobbying Act* and the *Lobbyists' Code of Conduct*

Performance Summary

2008–09 Financial Resources ($ thousands)

Planned Spending	Total Authorities	Actual Spending
4,513	4,894	4,466

2008–09 Human Resources (FTEs)

Planned	Actual	Difference
28	25	(3)

Strategic Outcome: Transparency and accountability in the lobbying of public office holders contribute to confidence in the integrity of government decision-making.		
Performance Indicator The level of compliance with the *Lobbying Act* and the *Lobbyists' Code of Conduct*.	**Target** 100%	**2008-09 Performance** The Office of the Commissioner of Lobbying continued its progress towards transparency and accountability in lobbying by effectively implementing the *Lobbying Act's* registration and compliance requirements.

2008-09 ($ thousands)

Program Activity	2007-08 Actual Spending ($ thousands)	Main Estimates	Planned Spending	Total Authorities	Actual Spending	Alignment to Government of Canada Outcomes
Registration of Lobbyists	2,489	1,900	1,900	2,251	2,064	An accountable transparent, and responsive government
Education and Research	881	987	987	1,214	1,126	
Reviews and Investigations under the *Lobbying Act* and the *Lobbyists' Code of Conduct*	817	1,626	1,626	1,429	1,276	
Total	4,187	4,513	4,513	4,894	4,466	

Contribution of Priorities to Strategic Outcome and Program Activities

Operational Priorities	Type	Status	Linkages to Strategic Outcome
Implement the new Lobbyists Registration System	Ongoing	Successfully met During 2008-09, the Office of the Commissioner of Lobbying (OCL) focused its efforts on the development, launch and technical optimization of the Lobbyists Registration System (LRS) to allow for implementation of the *Lobbying Act* (Act).	An effective and efficient LRS is the key to ensuring transparency and accountability in the lobbying of public office holders. Making information about lobbying publicly available, in keeping with the enhanced registration requirements of the *Lobbying Act*, contributes directly to increased confidence in the integrity of government decision-making. Improvement: Ensure that the evolution of the LRS continues to accommodate the registration requirements of the Act and the needs of its users.
Promote awareness of Act and Code requirements	Ongoing	Successfully met Through various means of communications (e.g., information material, advisory letters, website, formal presentations at national, provincial and international conferences and meetings, speeches, appearance before Parliamentary Committee, etc.) the OCL worked to ensure that lobbyists, their clients, public office holders (POH) and designated public office holders (DPOH) were aware of their obligations under the Act.	Enhanced awareness of the Act and Code is an essential component of ensuring that all interested parties are fully informed about the registration requirements of the Act. Improvement: Expand our communications activities to ensure we are capturing as many relevant groups as possible in our promotions.
Pursue enforcement of the Act and the Code and communicate the results	Ongoing	Successfully met Thirteen allegations of non-compliance with the *Lobbying Act* and the *Lobbyists' Code of Conduct* (Code) were brought to the attention of the Investigations Directorate and administrative reviews	Adherence to the Act and the Code ensures that the lobbying of public office holders is done transparently. Public office holders, lobbyists and their clients are made aware of the importance of adhering to the legislation and that there are

Operational Priorities	Type	Status	Linkages to Strategic Outcome
		were commenced on all 13 allegations.	consequences to non-compliance. Reviews and investigations of alleged transgressions promote awareness of the OCL's enforcement efforts. Improvement: Better case management to improve processing of reviews and investigations.

Risk Analysis

The coming into force of the *Lobbying Act* (the Act) on July 2, 2008 increased the need for transparency and accountability in lobbying registration and registrant compliance. The OCL upgraded its registry, its education and research functions, and its compliance resources to deal with the challenges brought by the Act.

The core instrument of the OCL is its Lobbyists Registration System and its public interface, the Registry of Lobbyists. It is available to registrants 24 hours a day, seven days a week. We avoided major interruptions and shutdowns of the system throughout the year as a result of our many safeguard measures. Any temporary shutdowns experienced during this reporting period were of the shortest duration (never exceeding an hour) and did not result in measurable inconvenience to our users.

During the development phase of the new Lobbyists Registration System, technical risks were lessoned by a responsive, project management methodology which responded to system difficulties at each project iteration stage. Financial and human resources risks associated with the project were also minimized through multi-level reporting and planning processes.

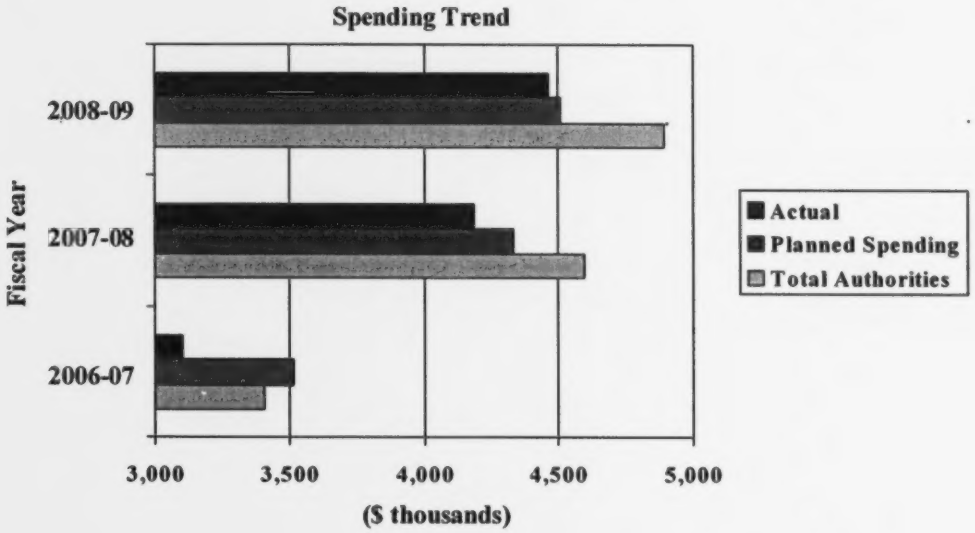
The *Lobbying Act* requires monthly reporting of certain communications with designated public office holders. This reporting requirement is done on-line without OCL vetting and carries with it the possibility of undetected input errors. Such errors could not be fixed by the users on-line, thus requiring assistance from OCL staff. The OCL educated lobbyists and designated public office holders on how best to report monthly communications with as few errors as possible, but monthly reporting input errors still occurred. The OCL verified 327 monthly communication entries[1] of which 298 (91%) were accurate and 29 (9%) had errors. The errors included such things as incorrect spelling, wrong dates, and wrong subject matters. To solve the problem, OCL began the development of a new registration function in 2008-09 which, once completed, will permit users to change incorrect information on-line without the need for OCL involvement.

The OCL endeavored to minimize the factors that led to time-consuming litigation by conducting comprehensive investigations and reviews and ensuring that files were well documented. Given that the *Lobbying Act* permits applications for exemption from the five-year prohibition and that these applications may also be challenged in court, the same methodology was used for documenting the exemption files.

The Office of the Commissioner of Lobbying is a small department dependent on other federal institutions to act as service providers for a number of its corporate services, including information technology, human resources and financial services. Service agreements with other federal organizations were monitored carefully and OCL ensured that all practices and services were consistent with its requirements and standards.

[1] The *Lobbying Act* and the requirement for monthly communication reporting came into force on July 2, 2008. The period of verification was therefore from July 2, 2008 to March 31, 2009.

Expenditure Profile



OCL's actual and planned spending increased over the last two fiscal years. These increases reflect additional funding required for implementing the *Lobbying Act*. With the coming into force of the *Lobbying Act*, major changes were required to the Lobbyists Registration System to incorporate the new requirements of the *Lobbying Act*.

In 2008-09, the variance between actual and total authorities is mainly due to vacant positions being staffed throughout the year, as well as employees on parental leave.

The planned spending reflects the funding OCL requires for delivering its mandate with a full complement.

The variance between planned spending and total authorities resulted mainly from funding received due to ratification of collective agreements.

Voted and Statutory Items

($ thousands)

Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2006-07 Actual Spending	2007-08 Actual Spending	2008-09 Main Estimates	2008-09 Actual Spending
45	Program Expenditures	2,858	3,886	4,097	4,098
(S)	Contributions to employee benefit plans	245	301	416	368
	TOTAL	3,103	4,187	4,513	4,466

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

Transparency and accountability in the lobbying of public office holders contribute to confidence in the integrity of government decision-making.

Registration of Lobbyists

Program Activity: Registration of Lobbyists					
2008-09 Financial Resources ($ thousands)			2008-09 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
1,900	2,251	2,064	10	10	-

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
All lobbying activity is carried out by individuals, organizations and corporations that are properly registered in the Lobbyists Registration System.	Number of active registrations processed in the Lobbyists Registration System.	100%	Successfully met	The OCL analyzed and approved lobbyists' registrations and made them available for reference in an electronic registry publicly accessible on the Internet. The new registration requirements, i.e., monthly reporting, generated a significant increase in registration activity.
Canadians have access to information about lobbying and lobbyists.	Online availability of the Registry of Lobbyists	95%-98%		The on-line availability of the Registry remained high throughout the reporting period.

Benefits for Canadians

The registration of lobbyists contributed to the increased transparency of federal lobbying activities and this increased transparency helped bolster the confidence of Canadians in their federal institutions.

Performance Analysis

OCL deployed an online registration system that accommodates the new lobbyist registration requirements. The system permitted lobbyists to register their lobbying activities and perform amendments, renewals and terminations. Public office holders and members of the public could search the registry, thus increasing transparency. The OCL adapted and enhanced the registry for more efficiency and effectiveness.

The OCL implemented functions that help representatives better manage multiple lobbyists and lobbying activities. The registry has an improved search functionality that simplifies and enhances a user's experience and supports investigation activities.

The registry improvements were completed as planned, except for the final delivery date which had to be changed to accommodate the delays brought about by the coming into force of the *Lobbying Act*. Although there were costs associated with these delays, they had been anticipated within the project contingency margin.

In 2008-09, the number of active registrations processed increased from 7,500 to 11,220. This was largely due to the changes brought to the registration process by the *Lobbying Act,* i.e., monthly reporting, and, consequently, to the Lobbyists Registration System. Prior to the *Lobbying Act* all processed active registrations were tracked but, with the addition of monthly reporting, tracking necessitated including the monthly reporting activity into a combined total. At this point, it is difficult to forecast whether this level of activity will stabilize or continue to increase and what percentages will be attributable to active registration versus monthly reporting. We plan to establish and refine registration indicators that will give us clearer registration numbers for both active registration and monthly reports.

Lessons Learned

The registration changes brought about by the *Lobbying Act* have put additional demands on registrants to comply with the new disclosure requirements, as well as pressure on OCL staff to provide timely advice and processing of registrations. We expect that, as registrants become increasingly familiar with the reporting requirements of the Act, difficulties in filing initial returns and the number of incorrect monthly reports should diminish. In order to improve the amendment of incorrect monthly reports in the future, the OCL began the development of a new Registry function that will permit registrants to modify incorrect monthly communications reports themselves. This new functionality should be operational in the first half of fiscal year 2009-10.

Strategic Outcome

Transparency and accountability in the lobbying of public office holders contribute to confidence in the integrity of government decision-making.

Education and Research

Program Activity: Education and Research					
2008-09 Financial Resources ($ thousands)			**2008-09 Human Resources (FTEs)**		
Planned Spending	**Total Authorities**	**Actual Spending**	**Planned**	**Actual**	**Difference**
987	1,214	1,126	6	5	(1)

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
Lobbyists, their clients, public office holders and the public are aware of the scope and requirements of the *Lobbying Act*.	Survey conducted in the third quarter of every year.	80% say that their awareness has increased	Successfully met	The OCL developed an educational and outreach strategy to ensure that lobbyists, their clients, public office holders, and the public better understand the registration requirements of the *Lobbying Act* (Act).
	Number of presentations.	30 outreach activities	Successfully met	There were 39 OCL outreach activities in 2008-09 which included presentations to conferences, professional lobbying groups, government workshops, international, provincial and municipal government groups.
	Number of advisory letters that result in a response.	50%	Successfully met	Twenty advisory letters were issued with six resulting in new registrations. The remaining 14 letter recipients determined that there was no need to register.

Benefits for Canadians

Education and Research contributed to increased awareness of the requirements of the *Lobbying Act* and the *Lobbyists' Code of Conduct.* It is expected that this increased awareness will translate into enhanced accountability and transparency in the lobbying of public office holders and, subsequently, the confidence of Canadians in their federal institutions.

Performance Analysis

The OCL developed a comprehensive education and outreach strategy that set the framework for the OCL's outreach efforts. This strategy will unfold progressively over the coming fiscal year. It comprises new information technology tools; direct communications with lobbyists, media, public office holders and the public; advisory letters to lobbyists who may have conducted lobbying activities for which they should have registered but did not; information sessions; media relations; conferences; learning events; briefings for government institutions; and continued dialogue with other jurisdictions and stakeholders.

Lessons Learned

The OCL successfully implemented the first step of its education and outreach strategy by developing and distributing targeted communications and information products. In subsequent fiscal years, the OCL will further implement its education and outreach strategy by working with various parties in addressing their specific issues and needs. It is OCL's belief that greater compliance will be achieved through enhanced educational material and activities.

Strategic Outcome

Transparency and accountability in the lobbying of public office holders contribute to confidence in the integrity of government decision-making.

Reviews and Investigations under the *Lobbying Act* and the *Lobbyists' Code of Conduct*

Program Activity: Reviews and Investigations under the *Lobbying Act* and the *Lobbyists' Code of Conduct*					
2008-09 Financial Resources ($ thousands)			**2008-09 Human Resources (FTEs)**		
Planned Spending	**Total Authorities**	**Actual Spending**	**Planned**	**Actual**	**Difference**
1,626	1,429	1,276	12	10	(2)

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
Alleged breaches of the *Lobbying Act* and the *Lobbyists' Code of Conduct* are determined to be either unfounded or true so that they may be subjected to the appropriate sanctions.	Number of alleged breaches of the *Lobbying Act* and the *Lobbyists' Code of Conduct* which result in decisions.	100%	Successfully met	The OCL verified that registrable activities by lobbyists were properly reported, monitored lobbying activity through the media, confirmed information contained in monthly communication returns, reviewed applications for exemption from the five-year prohibition on lobbying, and investigated allegations of non-compliance with the *Lobbying Act* or the *Lobbyists' Code of Conduct*.

Benefits for Canadians

Reviews and Investigations contributed to public confidence in decisions made by federal institutions by ensuring that lobbying activity was conducted in accordance with the requirements of the Act, and that lobbyists adhered to the principles and rules set out in the *Lobbyists' Code of Conduct*. Increased conformity with the lobbying registration regime helped ensure accountability and transparency in the lobbying of public office holders.

Performance Analysis

The OCL initiated 13 administrative reviews on matters brought to our attention. Eight recommendation reports were prepared and sent to the Commissioner. OCL monitored media and other publicly available sources of information for evidence of lobbying, verified that registrable activity was properly reported, advised groups and individuals

about the requirement to register certain activity, and made recommendations to the Commissioner regarding the appropriate means of ensuring conformity with the Act and Code. The OCL also began a process of confirming the accuracy and completeness of monthly communication returns submitted by lobbyists and took steps to ensure the integrity of information contained in the registry. The OCL reviewed applications for exemption from the newly-implemented five-year prohibition on lobbying and provided timely and informative recommendation reports. Alleged contraventions of the Act and Code were investigated, appropriate compliance measures recommended, Reports to Parliament prepared, and results communicated.

Lessons Learned

Decisions made in the Federal Court and Federal Court of Appeal over the last year have resulted in the OCL reexamining its processes with a view to modifying them where required. For example, Rule 8, in the *Lobbyists Code of Conduct* states that "Lobbyists shall not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on a public office holder." A Federal Court of Appeal decision found that the previous guidance for Rule 8 was unreasonable. This decision will assist the OCL in providing revised guidance regarding conflict of interest and Rule 8.

SECTION III: SUPPLEMENTARY INFORMATION

Financial Highlights

The financial highlights presented within this Departmental Performance Report are intended to serve as general overview of OCL's financial position and operations. OCL's unaudited financial statements can be found on OCL's website at: http://www.ocl-cal.gc.ca

($ thousands)

Condensed Statement of Financial Position At End of Year (March 31)	**% Change**	**2009**	**2008**
ASSETS			
Total Assets	(4%)	2,044	2,125
TOTAL	(4%)	2,044	2,125
LIABILITIES			
Total Liabilities	16%	799	687
EQUITY			
Total Equity	(13%)	1,245	1,438
TOTAL	(4%)	2,044	2,125

($ thousands)

Condensed Statement of Operations For the year ended (March 31)	**% Change**	**2009**	**2008**
EXPENSES			
Total Expenses	40%	5,070	3,618
REVENUES			
Total Revenues	(100%)	-	1
NET COST OF OPERATIONS	40%	5,070	3,617

The year-over-year increase in total liabilities is mainly due to the increase in employee future benefits. This reflects the severance pay liability rate increase from 23.27% in 2007-08 to 26.92% in 2008-09, and a slight increase in staff.

The year-over-year increase in expenses is largely due to a loss on disposal of a tangible capital asset. Another impact was the settlement of the Public Service Alliance of Canada Collective Agreement.

The year-over-year decrease in revenues is due to the fact that following the implementation of the changes to the *Lobbyists Registration Act* contained in the *Federal Accountability Act,* the Lobbyists Registration and Service Fees Schedule enacted under the *Department of Industry Act* are no longer applicable to the registration of lobbyists under the *Lobbying Act*. Therefore, since July 2, 2008, the OCL is no longer charging user fees under the Lobbyists Registration and Service Fees Schedule

Supplementary Information Tables

All electronic supplementary information tables found in the 2008-09 Departmental Performance Report can be found on the Treasury Board of Canada's website at: http://www.tbs-sct.gc.ca/dpr-rmr/2008-2009/index-eng.asp.

- Table 1: Sources of Non-Respendable Revenue
- Table 2-A: User Fees Act
- Table 2-B: Policy on Service Standards for External Fees
- Table 3: Green Procurement
- Table 4: Response to Parliamentary Committees and External Audits

Other Item of Interest

In 2008-09, the Office of the Commissioner of Lobbying established an independent Departmental Audit Committee (DAC) as required by the Treasury Board's policy on Internal Audit.

The Departmental Audit Committee is composed of three external members, and the Commissioner of Lobbying is an ex-officio member.

This past year, an orientation meeting was held to brief the external members on the mandate and priorities of the office.